

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
(CIVIL DIVISION)

CIVIL SUIT NO. 594 OF 2016

1. TURAMUSIIMA GEOFREY
2. KIZITO RONNIE
3. KONGAI CAROL -----**PLAINTIFFS**

VERSUS

FEDERATION OF UGANDA
FOOTBALL ASSOCIATIONS (FUFA) LTD-----**DEFENDANT**

BEFORE HON. JUSTICE SSEKAANA MUSA

JUDGMENT

The facts of the plaintiffs' is that sometime in August 2016 bought tickets to watch a football match between the Uganda Cranes and Comoros which was to be played on 04/09/2016.

The plaintiffs claimed that they went to the stadium-Mandela National Stadium on 4th September 2016 atleast before two hours before the match kick off and where shocked to find the gates closed and access was denied.

The plaintiff as other people around the stadium missed watching the football match that they had paid for. The plaintiff suffered inconvenience, mental stress and embarrassment for which they sought compensation.

The plaintiffs sought to recover the value of the tickets i.e 25,000/= for the 1st plaintiff and 20,500/= for 2nd and 3rd plaintiffs.

The defendant denied the plaintiffs case and contended that all valid ticket holders who turned up and presented their tickets were allowed to enter and watch the game.

ISSUES.

- (1) Whether there was a contract between the plaintiffs and the defendant that was breached?
- (2) Whether the plaintiffs were denied access to Mandela National Stadium to watch the football match.
- (3) Whether the defendants acted fraudulently and illegally when it printed and sold more tickets for the match between Uganda cranes and Comoros?
- (4) Whether the Plaintiff is entitled to the remedies sought?

At the trial both parties agreed to file witness statements and when the suit was set down for hearing on 26th day of June 2018, the 1st plaintiff appeared in court with as the only one witness and after the testimony, the court denied him an adjournment and he was directed to close his case. The defendant opened his case with only one witness and also closed her case.

The court directed that the parties should file their submissions which they both filed and I have considered the said submissions in this judgment.

This matter ought to have been filed in the lower courts i.e (Magistrate grade two) since the value of the subject matter was extremely low-(Recovery of 25,000/= for the first plaintiff and 20,500/= for the 2nd & 3rd defendant) and there was no basis for filing it in the High Court. The practice of filing matters in the High Court for the convenience of advocates and litigants should be discouraged even though the High Court has unlimited jurisdiction on all matters.

This indeed adds to the backlog of cases in the High Court and yet the same could have been ably handled by the lower court.

Secondly, according to the terms and conditions that regulated the admission to the stadium to watch the match, it provided for alternative dispute resolution by way of arbitration.

'These conditions shall be governed by the laws of the Republic of Uganda. All disputes that arise shall be first referred to arbitration. Failing amicable agreement all disputes relating to the application hereof, even in the event of multiple defendants shall be subject to the sole jurisdiction of the courts of Uganda'.

It is clear the plaintiffs rushed to court before exploring amicable settlement through arbitration as envisaged under the terms and conditions. The plaintiff filed the suit on 14-September 2018, it was just 9 days after the match on 4th September and was seeking 5,000,000/=.

I wonder whether this was a genuine grievance that was brought to court or it was a mere legal engineering to make quick money. This should be discouraged in case to avoid clogging the system without seeking alternative avenues to resolve disputes.

Issue 1

Whether there was a contract between the plaintiffs and the defendant that was breached?

The 1st plaintiff stated in his witness statement that he bought a ticket of 25,000/= from FUFA house at Mengo. The ticket number according to his evidence was serial No. 45994. This was exhibited at P-1 and this according to him formed the basis of the contract between the 1st plaintiff and the defendant.

The same plaintiff during cross examination having served the defendant through his lawyers with a demand notice admitted as DEX-1 dated 7th September 2016 and indicated a different ticket serial No.81631 which he allegedly purchased at 20,500/= from the defendant's agent on 3rd September 2016.

The defendant's witness in his witness statement stated that;

'On the 7th September 2016, I received a demand note from the plaintiff alleging that he had purchased the discounted tickets on 3rd September 2016 from our agent who was not disclosed. I found the allegation false because discounted tickets ceased to be on the market on 10th August 2016 and were sold only at FUFA House not by any agent'

The 1st plaintiff attempted to deny any knowledge of the ticket which his lawyers had included in the demand letter during cross examination. But it is also clear that the said witness was an advocate or legal assistant in the same law firm and could not claim or feign ignorance of the origin of the said tickets.

In the case of ***Muhammed Kasasa vs Jasper Buyonga & Sirasi Bwogi CACA 42 of 2008*** it was held that *"a client is bound by the actions of his counsel. And negligently drafting the plaint or incompetency in doing same is not an excuse for a client to escape being bound by his counsel's actions"*

The evidence adduced for the existence of the contract is highly suspicious due to the major contradictions by the 1st plaintiff testimony goes to the root of the case and makes it doubtful whether he indeed he had bought the said ticket. The court would reject the said evidence as being fabricated to suit the case before court.

In the case of ***Constantino Okwel alias Magendo vs Uganda SCCrA No. 12 of 1990*** cited with approval in ***Irumba Cornelius vs Byenkya Charles HCCA 005 of 2011*** Court noted that; *" In assessing the evidence of a witness consistency or inconsistency , unless satisfactorily explained, will usually.....result in the evidence of a witness being rejected"*

The 1st plaintiff does not state when he bought the said ticket and from which agent. There is missing link to this crucial evidence since he alleged he bought the ticket at FUFA house Mengo in his testimony before court.

In Exhibit D-1 he does not state from which agent he had bought the said ticket and he claimed to have bought the ticket on a discounted ticket on Saturday. "

Our client purchased a ticket (Ticket No. 81631-serial No. 8651337551), at 20,500/= from your agent on Saturday 03/09/2016. (a copy of the ticket is hereto attached for your ease of reference)”

Be that as it may, the said tickets that were issued to the plaintiff were subject to the terms and conditions. At the bottom of the ticket it was stated; Utilisation of this ticket is acceptance of the terms and conditions at fufa.co.ug/tc/.

Some of the terms and conditions are follows;

Tickets shall not be replaced or refunded in the event of (iii) closure of gates by security); FUFA will not make any other refund such as in particular the related costs (transport, accommodation, e.t.c) incurred by a ticket holder to travel to the match; Access to the stadium shall be subject to compliance with the regulations and relevant Stadium rules, subject to security guidelines and orders.

Except as otherwise set out in these terms and conditions. FUFA shall not have any liability in respect of any failure to carry out, or any matter in respect of these terms and conditions including admitting you and or any other user to the ground for the match, caused by any circumstances outside FUFA’s reasonable control.

The purchase or acquisition of a ticket *per se* did not mean that the contract was concluded. It was subject to the terms and conditions set out at fufa.co.ug/tc/.

The sum effect of rejecting the said evidence would dispose of all the issues since there was no plausible evidence to confirm the existence of the contract in compliance with the terms and conditions for the admission to the stadium.

The suit is dismissed with no order as to costs.

It is so ordered.

SSEKAANA MUSA
JUDGE
7th /09/2018